

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

JOHN HOPKINS, BRODY PUCKETT, on behalf of themselves, individually, and all others similarly situated,
Plaintiffs,

v.
STRYKER SALES CORPORATION, a Michigan Corporation; and DOES 1 to 100, inclusive,
Defendants.

Case No. CV 11-02786 LHK

CLASS ACTION

**ORDER REGARDING EDITS TO
SETTLEMENT AGREEMENT, NOTICE
OF PROPOSED CLASS ACTION
SETTLEMENT, AND NOTICE OF
ANTICIPATED SETTLEMENT SHARE**

As discussed at the November 20, 2012 preliminary fairness hearing on the proposed settlement in this action, the Court asks that the Parties take the following actions by Friday, December 7, 2012:

1. In the opening paragraph of the Settlement Agreement, after “on behalf of the certified class”, the parties will insert the following: “(as described in Paragraph 2)”.

2. The parties will modify the Settlement Agreement (ECF No. 45, Ex. A) so that the term “Settlement Class Members” explicitly excludes the 20 potential class members who excluded themselves from participation in the certified class. The parties will also revise the remaining portions of the Settlement Agreement to refer to “Settlement Class Members” rather than “Class Members” where a reference to “Settlement Class Members” is appropriate. The paragraphs of the

1 Settlement Agreement that should be revised include 19 and 27. Additionally, the parties should
 2 review Paragraphs 17, 18, 21, 22, 25, 26, 31, and 42 to determine whether those paragraphs should
 3 be modified as well.

4 3. The parties will revise Paragraph 5 of the Settlement Agreement to include the
 5 underlined text: “Pursuant to the Court’s Order, notice of the certification of the class was
 6 disseminated to class members via United States Mail. Of the possible 113 class members, 19
 7 excluded themselves from participation in the certified class in a timely manner. One additional
 8 class member requested that he be excluded from participation in the certified class after the
 9 deadline for exclusion had passed. The parties mutually agreed that this class member should be
 10 excluded notwithstanding his failure to make a timely request. The remaining class which will
 11 participate in this settlement consists of 95 individuals.”

12 4. The parties will revise the Notice of Proposed Class Action Settlement (“Notice”) to
 13 provide that a Settlement Class Member wishing to present an objection must file his objection with
 14 the Settlement Administrator.

15 5. The parties will modify page 2 of the Notice, Section I, to state, within the first two
 16 paragraphs, that one of the purposes of the Notice is to inform the Settlement Class Members that a
 17 settlement has been reached and that the Settlement Class Members may be entitled to a portion of
 18 the settlement proceeds.

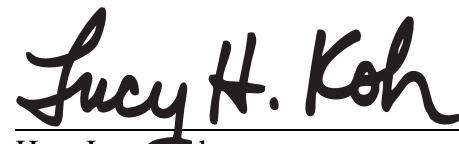
19 6. On page 4 of the Notice, Section VII, after “to each class representative for their
 20 efforts in the litigation”, the parties will insert the following text: “. The \$4,250,000 also includes
 21 attorneys’ fees, the amount of which will be determined by the Court and will in no event be more
 22 than one-third of the Settlement Fund, and costs expended by Class Counsel as approved by the
 23 Court.”

24 7. On page 1 of the Notice of Anticipated Settlement Share, after “\$ _____”,
 25 the parties will insert the following text: “This is your anticipated share of the Net Settlement Fund,
 26 which is the gross settlement amount of \$4.25 million minus the expenses related to the Settlement
 27 Administrator (which are anticipated to be no more than \$10,000), \$7,500 enhancement awards for

1 each of the two class representatives, the Court approved attorneys' fees (which will be no more than
2 one-third of the gross settlement amount), and the Court approved costs."

3 **IT IS SO ORDERED.**

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5 Dated: November 20, 2012
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Hon. Lucy Koh

United States District Judge

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